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January 17, 2020

Mr. Ralph M. Diaz, Secretary
California Department of Corrections and Rehabilitation
1515 S Street
Sacramento, CA 95811

Re: Advocacy Letters Received from *Coleman* and *Armstrong* Plaintiff's Counsel

Dear Mr. Diaz:

In January 2019, the Office of the Inspector General began receiving copies of letters written to the Office of Legal Affairs at the California Department of Corrections and Rehabilitation (CDCR or department) by attorneys from Rosen Bien Galvan & Grunfeld LLP, the attorneys who represent inmates in the *Coleman* and *Armstrong* federal class action lawsuits. We received these letters pursuant to Penal Code section 6128. These letters, called "advocacy letters," call attention to complaints of staff misconduct and mistreatment of their clients. In all, the Plaintiffs' Counsel copied us on 16 different advocacy letters pertaining to 14 inmates. The purpose of this letter is to report what action we were able to determine that the department took upon receiving these complaints.

Each letter requested that the department take specific action regarding the concerns raised in the advocacy letters. Plaintiffs' Counsel requested that any inquiry be done by personnel from outside the prison and not by the prison's Investigative Services Unit. In all cases, the staff misconduct described was serious and, if true, would result in disciplinary action for the subject employees.

Thirteen of the 14 inmates had reported allegations to the prison prior to the department's receipt of the advocacy letter. The prison conducted inquiries into the inmate allegations of misconduct prior to the receipt of the advocacy letters, although not all allegations were investigated. Only one inmate had not previously reported allegations to the prison.

In summary, our review of the department's handling of these advocacy letters revealed a pervasive lack of timely follow through by the department after being informed of potential staff misconduct. Even in the few cases when the department did take action, they ignored many of the allegations in the letters.

I reached out to Plaintiffs' Counsel to inquire about their expectation for the Office of the Inspector General as soon as we began receiving copies of their correspondence. I explained that this office had no authority to investigate the complaints and could not comment on the quality



of the investigation or inquiry conducted by the department. Plaintiffs' Counsel explained that their reason for including our office in the distribution list was to give us some visibility on the issues they were raising.

We express no opinion about whether the complaints are valid, about the quality of any investigations or inquiries, or if we agree or disagree with any final decisions after such investigation or inquiry. We only reviewed whether the department addressed all allegations of misconduct identified by the advocacy letters, with the expectation that the department would follow its own policy as expressed in the Department Operations Manual, Article 14, Section 31140.1, which states,

“Every allegation of employee misconduct within the Department of Corrections and Rehabilitation (CDCR or Department) shall be promptly reported, objectively reviewed, and investigated when appropriate.”

The Department Operations Manual goes on to say at Section 31140.4.3,

“The Office of Internal Affairs is responsible for determining which allegations of staff misconduct warrant an Internal Affairs investigation and for completing all investigations in a timely and thorough manner.”

In June 2019, I met with the department General Counsel to discuss how the department was responding to the advocacy letters. The General Counsel assured me that there was a process in place to make sure the issues raised in the advocacy letters were forwarded to the appropriate entity within the department to address the concerns raised, and subsequently, provided my office with documentation detailing this process. In their written process, the Office of Legal Affairs states that when an inmate alleges a violation of the *Armstrong* Remedial Plan or American with Disabilities Act (ADA), they have a process in place to “investigate, and hold staff accountable within parameters set through the *Armstrong* Remedial Plan, Court Orders, and CDCR's various Class Action Teams.”

We utilized a number of sources to determine what action the department took on each allegation raised in the advocacy letters. We reviewed printed outputs generated by the inmate appeals and tracking system relative to each inmate to determine if the prison addressed any of the alleged complaints through the staff complaint process. We also reviewed documentation the prison completed for the allegations, if the prison conducted a staff complaint inquiry or a use-of-force allegation inquiry.

To determine whether the department communicated with Plaintiffs' Counsel, we reviewed all correspondence generated by the department related to the advocacy letters. We also requested all documentation showing the process used by the Office of Legal Affairs to refer these matters to CDCR Division of Adult Institutions.

Overall, we determined that the department, for the most part, did not thoroughly review the issues raised in the advocacy letters. The advocacy letters raised 31 allegations that were

previously unknown to the department. Of those 31 additional allegations, the department conducted an inquiry into only three.

Additionally, we found that in each case, Plaintiffs' Counsel's requests to have the issues reviewed by personnel outside the prison were largely ignored. We do note that the department has no obligation to have these inquiries conducted outside the prison, but we also believe that conducting these inquiries outside the subject prison would have introduced much needed transparency into these issues. Upon receiving the advocacy letters at the prison level, the institution referred only one allegation of misconduct to the Office of Internal Affairs requesting an investigation. The Office of Internal Affairs rejected the request for investigation and returned it to the prison for further inquiry; however, the prison did not conduct any further inquiry and the Office of Internal Affairs never conducted any follow-up on its request to the institution for further inquiry. On December 27, 2019, following another request by our office to the Office of Legal Affairs for documentation, the department referred allegations from a second advocacy letter for inquiry outside the prison, requesting another prison conduct the inquiry.

The Office of Internal Affairs independently opened four investigations into allegations of misconduct prior to receipt of the advocacy letters. However, after receiving the advocacy letters regarding these allegations, the department did not submit any of the four advocacy letters to the Office of Internal Affairs for consideration. This is important because the advocacy letters contained additional allegations of misconduct arising from the incidents the Office of Internal Affairs was investigating. Therefore, not all allegations of misconduct arising from these incidents were investigated.

The department failed to provide status updates to Plaintiff's Counsel for most of the advocacy letters. The Plaintiffs' Counsel submitted 16 advocacy letters on behalf of 14 of their clients. The Office of Legal Affairs acknowledged receipt of nine of the advocacy letters, and it provided a more detailed final response to only seven letters. However, the responses were not timely, with one response provided to Plaintiffs' Counsel almost 10 months after receipt of the advocacy letter.

The department provided seven responses to Plaintiffs' Counsel for the 16 advocacy letters.

The Office of Legal Affairs provided a response to seven advocacy letters. In one of the seven responses, the Office of Legal Affairs provided a status update to Plaintiffs' Counsel, noting that the prison had already conducted a fact-finding inquiry into the incidents prior to the date of the advocacy letter. In this response, the Office of Legal Affairs reported to Plaintiffs' Counsel that because the allegations described were related to an active litigation, "for which [the inmate] has retained independent counsel, we are not able to provide further information at this time."

For the remaining nine advocacy letters, the Office of Legal Affairs responded to the Plaintiffs' Counsel with only an acknowledgment of receipt of the advocacy letters. Three of the letters acknowledging receipt noted that the staff misconduct allegations described by the advocacy letter "are appropriate for referral to the processes articulated in Chapter 3, Articles 14 and 22 of

CDCR's Operations Manual, which govern Internal Affairs Investigations and employee discipline." However, there was no documentation from the department regarding any referrals. We also conducted a review of referrals to the Office of Internal Affairs, and there were no referrals related to the allegations in these three cases. The Office of Legal Affairs reported to us that three of the nine outstanding responses had been prepared, but had not yet been finalized.

The department referred inquiries to investigators outside the prison to conduct inquiries in six of the 16 letters.

Plaintiffs' Counsel requested that the department open an inquiry into the allegations presented in the advocacy letters but requested the department assign an investigator from outside the prison. In four cases, the incident in question had coincidentally been opened by the Office of Internal Affairs for investigation prior to the receipt of the advocacy letter. However, each advocacy letter presented additional information and allegations regarding the incident, but the department took no action and did not notify the Office of Internal Affairs of the additional information. Additionally, in only two of the four cases did the department inform the Plaintiffs' Counsel that an investigation by the Office of Internal Affairs had been approved.

In one case, one prison forwarded one allegation from one advocacy letter to the Office of Internal Affairs requesting an investigation. The Office Internal Affairs rejected the request and returned the matter back the prison to conduct further inquiry. As noted above, no further inquiry was done by the prison and the Office of Internal Affairs did not follow up on its request that the prison conduct further inquiry.

The Office of Legal Affairs reported that after meeting with an associate director who supervises the prison, the associate director approved one advocacy letter to be referred to a different prison to conduct an inquiry.

The Department did not address all of the allegations raised by inmates in the advocacy letters.

The 16 advocacy letters described in detail serious incidents of staff misconduct¹. Each letter was specific to an inmate and provided a detailed summary of events, including dates, times, the names of specific staff members involved in the incidents, and the names of specific inmates who were, or could be, witnesses to the incidents. Some advocacy letters included attachments containing medical documentation, staff complaint paperwork, and incident reports.

The advocacy letters identified a total of 67 allegations for 14 inmates, including discourteous treatment, unreasonable use of force, retaliation, and threats. Some allegations of neglect of duty, for failing to provide access to medical care, were also identified in the advocacy letters.

¹ The Plaintiffs' Counsel submitted two advocacy letters on the behalf of two inmates.

We determined that of the 67 allegations identified in the advocacy letters, the department had prior knowledge of 38 allegations. The affected inmates had previously reported these 38 allegations by submitting written complaints to the prison through the inmate appeals process or the request for reasonable accommodation process prior to the receipt of the advocacy letters. One inmate reported an allegation by calling the Office of Internal Affairs hotline, who then notified the prison of the allegation. One inmate raised two other allegations during a use-of-force inquiry.

The prison conducted inquiries at the local level into only 19 of these 38 known allegations *before* receiving the advocacy letters. Nine of the 38 allegations were referred to the Office of Internal Affairs for investigation, and 10 of the 38 allegations were not addressed.

The advocacy letters identified 31 additional allegations. Only three of the 31 additional allegations resulted in an inquiry at the local level. The department conducted no inquiry into 28 allegations of alleged serious misconduct.

Plaintiffs' Counsel highlighted an unfair rules violation hearing in one advocacy letter, alleging that the hearing officer told the inmate he was only going to believe what the officers said to him and delivered an ultimatum to the inmate to plead guilty to a lesser charge or face a more serious charge. The inmate fearing a greater penalty admitted to the lesser charge. The Office of Legal Affairs commented on this allegation in its response to Plaintiffs' Counsel simply stating that the hearing officer provided documentation of testimony and evidence in support of the finding, and that the inmate admitted the behavior. This response by the Office of Legal Affairs did not address the serious alleged misconduct of the hearing officer.

The following pages contain our summary of each of the advocacy letters we received.

Summary of Each Incident and Advocacy Letter and the Department's Action

<i>Date Advocacy Letter was Submitted to CDCR</i>	<i>Date of Alleged Incident</i>	<i>Date Staff Complaint Inquiry Completed</i>	<i>Was an Inquiry Completed in response to Advocacy Letter?</i>	<i>Did CDCR Respond to the Plaintiffs' Counsel?</i>
January 8, 2019	October 14, 2018	March 7, 2019	No	Yes

On October 14, 2018, an inmate alleged he was stabbed multiple times by other inmates during a riot on an exercise yard at the request of an officer. The inmate reported the officer allegedly had him stabbed because the inmate was interviewed on September 19, 2018, in connection with allegations of staff misconduct. The inmate reported that the department determined the stabbing was a result of a racially motivated act of gang violence, however, the inmate reported that statements made to him after the incident undermines the department's determination. The inmate alleges the attack was orchestrated by an officer who is known to be involved in organizing attacks on inmates. On October 27, 2018, the inmate alleged that following his return from medical treatment from the stabbing, his property was missing from his cell. The inmate alleged that officers left his property unattended and allowed other unsupervised inmates to take his property.

On December 18, 2018, the inmate filed a written complaint on a CDCR form 602, requesting return of his personal property and compensation for any property lost. The prison conducted an inquiry into the complaint and determined that the property that was being held in the storage while the inmate was in the hospital would be returned and damaged property would be replaced. The prison's response dated March 7, 2019, addressed the missing property issues.

On January 8, 2019, Plaintiffs' Counsel sent a letter to the Office of Legal Affairs which reported the inmate's allegations that his property was missing and included the allegation that the inmate was stabbed at the request of an officer. The advocacy letter provided detailed information about the stabbing, including the name of the officer who allegedly orchestrated the attack.

The department provided the Office of Inspector General a copy of the inmate's complaint, the prison's response to the complaint, and the Office of Legal Affairs acknowledgement of the advocacy letter and their response to the Plaintiffs' Counsel.

OIG Analysis

In our review of the inmate's staff complaint, we noted that the inmate only requested the prison return his "stolen property" or provide compensation for the missing property. The complaint did not make any allegations regarding the officer who allegedly orchestrated the attack on the inmate. The advocacy letter identified this additional allegation.

During our analysis, we located the prison's inquiry into the stabbing of the inmate. On November 6, 2018, the prison conducted a fact-finding inquiry into the riot which included an

inquiry into the inmate's stabbing. The prison conducted this inquiry prior to the receipt of the advocacy letter.

On July 17, 2019, the Office of Legal Affairs responded to Plaintiffs' Counsel. Our analysis of the response letter revealed that the Office of Legal Affairs provided a response to each of the inmate's allegations contained in the advocacy letter. The letter addressed the purpose for the September 19, 2018, interview, the October 14, 2018, riot which resulted in the inmate being stabbed by other inmates, and the missing property. However, the Office of Legal Affairs responded to the Plaintiffs' Counsel over six months after receiving the advocacy letter.

<i>Date Advocacy Letter was Submitted to CDCR</i>	<i>Date of Alleged Incident</i>	<i>Date Staff Complaint Inquiry Completed</i>	<i>Was an Inquiry Completed in response to Advocacy Letter?</i>	<i>Did CDCR Respond to the Plaintiffs' Counsel?</i>
February 26, 2019	January 21, 2019	January 23, 2019	No	No

On January 21, 2019, an inmate reported that he observed an "elderly ADA inmate" being assaulted by an officer. The witness reported that he observed an officer allegedly grab the elderly inmate, push him up against a fence, knock him in the torso, causing the inmate to fall to the ground, and then jump on the elderly inmate's back, while yelling "stop resisting." The witness reported that multiple staff members responded to the area and allegedly began punching and kicking the elderly inmate. The officers then allegedly handcuffed the elderly inmate and were escorting him in the direction of the medical building when the elderly inmate was pushed or collapsed and fell on to the ground. The witness reported that he observed officers attempt to pull the elderly inmate up, and when the inmate did not get up, another officer allegedly kicked the elderly inmate in the rib cage. A sergeant responded but allegedly did not stop the attack. A second sergeant responded, and the attack stopped.

On February 26, 2019, Plaintiffs' Counsel sent a letter to the Office of Legal Affairs which reported that the "elderly ADA inmate" was identified as their client. The advocacy letter provided detailed information regarding the use-of-force incident as described by the reporting inmate, including names of alleged involved officers. The advocacy letter also provided the name of the sergeant who allegedly failed to intervene and stop the attack.

The department provided the Office of Inspector General with copies of the use-of-force incident reports and allegation worksheets, medical documentation, and a request for an internal affairs investigation with supporting documentation.

OIG Analysis

In our analysis, we noted that a sergeant was conducting unrelated interviews of inmates on January 22, 2019, when he learned of this incident. He immediately informed the warden. On January 23, 2019, the warden directed the investigative services unit to prepare a request for investigation, which they did and submitted to the Office of Internal Affairs.

While the Office of Internal Affairs was reviewing this matter, Plaintiffs’ Counsel submitted their advocacy letter to the Office of Legal Affairs. On March 6, 2019, the Office of Internal Affairs approved an investigation into allegations of unnecessary force and failure to report a use of force. The Office of Legal Affairs provided the advocacy letter to the associate director but did not notify the Office of Internal Affairs of the allegations in the advocacy letter. Also, the Office of Legal Affairs did not communicate to Plaintiffs’ Counsel that the Office of Internal Affairs had opened an investigation.

<i>Date Advocacy Letter was Submitted to CDCR</i>	<i>Date of Alleged Incident</i>	<i>Date Staff Complaint Inquiry Completed</i>	<i>Was an Inquiry Completed in response to Advocacy Letter?</i>	<i>Did CDCR Respond to the Plaintiffs’ Counsel?</i>
February 26, 2019	December 14, 2018	May 1, 2019	No	Yes
	December 17, 2018	February 18, 2019	No	

On December 14, 2018, an inmate alleged that he requested officers to make copies of his legal mail while they were handing out breakfast trays through the food port. The inmate reported that one officer allegedly responded, “[Expletive] no, you filed [a staff misconduct complaint] on [an officer].” The inmate then requested to talk to the sergeant and stated that he wanted the food port left open. The inmate alleged that the officer stated, “Slam the food port on his hand,” at which point the second officer allegedly closed the food port on the inmate’s hand. The inmate alleged that as a result, his hand was fractured and was placed in a cast. Following the incident, the inmate reported his allegation of excessive force to a psychiatric technician during a medical evaluation.

In a second incident, on December 17, 2018, the inmate alleged that he was returning from a medical appointment when three officers and a sergeant allegedly had him lie down in a sally port, where he was handcuffed and shackled, then taken back to his cell. The inmate alleged that while he was at his cell door, he was allegedly placed on his knees to remove the ankle restraints when the sergeant signaled that the cell door be closed on his neck and chin. As a result of his injury, the inmate reported that he lost feeling and fell to the ground. The sergeant then allegedly threatened him by stating, “Don’t get up. If you get up, I will say you threatened me.” The inmate reported that he experienced temporary paralysis, suffered a neck contusion, coughed up blood for five days, and has ongoing neck and lower back pain.

On December 19, 2018, the inmate filed a written staff complaint on a CDCR form 602 regarding the December 14, 2018, incident. The prison conducted an inquiry and, in a memorandum, dated April 29, 2019, the prison notified the inmate that the appeal inquiry was complete and all issues were adequately addressed. The memorandum also stated that staff did not violate department policy with respect to one or more of the issues appealed.

On December 21, 2018, the inmate filed a written staff complaint on a CDCR form 602 regarding the December 17, 2018, incident. A lieutenant conducted a video-recorded interview of the inmate, and in a memorandum, dated February 18, 2019, the prison notified the inmate

that the appeal inquiry was complete and all issues were adequately addressed. The memorandum also stated that staff did not violate department policy with respect to one or more of the issues appealed.

On February 26, 2019, Plaintiff's Counsel submitted an advocacy letter to the Office of Legal Affairs which reported the inmate's allegations regarding the December 14, 2018, incident, detailing both the discourteous statement by the officer and the closing of the food port on the inmate's hand. Additionally, the advocacy letter reported the December 17, 2018, incident of the sergeant allegedly signaling the cell door to be closed on the inmate and the sergeant allegedly threatening to write up the inmate.

The department provided the Office of Inspector General a copy of both of the inmate's staff complaints, the inquiry report, the responses to the inmate, use-of-force allegation review documents, medical documentation, and two letters from the Office of Legal Affairs, one acknowledging receipt of the advocacy letter and the other was a status update letter.

OIG Analysis

We determined the department conducted separate inquiries for each incident. The inmate reported the first incident during a medical evaluation and followed up with a written complaint. The inmate's reported allegations were the same as noted in the advocacy letter. However, the department's inquiry only focused on the inmate's allegation that the food port door was intentionally closed on his hand and not the discourteous statement.

The inmate also filed a separate written complaint regarding the second incident. The second complaint also detailed the allegations that the sergeant had the inmate's cell door intentionally closed on his neck and threatened to write up the inmate. The department's inquiry, however, only addressed whether the sergeant used unnecessary force but did not include the alleged threat made by the sergeant.

The department also provided our office with a copy of the acknowledgment letter the Office of Legal Affairs sent to the Plaintiffs' Counsel, dated March 15, 2019. The acknowledgement letter indicated that the staff misconduct allegations described by the advocacy letter "are appropriate for referral to the processes articulated in Chapter 3, Articles 14 and 22 of CDCR's Operations Manual, which govern Internal Affairs Investigations and employee discipline." However, the department made no such referrals. We also reviewed referrals to the Office of Internal Affairs and verified that there were no referrals related to the allegations involving the inmate. The Office of Inspector General believes that the department should have referred the allegations of misconduct to the Office of Internal Affairs for consideration of investigation pursuant to department policy set forth in the Department Operations Manual.

The department also provided us a copy of a second response letter, dated July 12, 2019, from the Office of Legal Affairs to the Plaintiffs' Counsel. This second response letter advised that the prison had conducted a fact-finding inquiry into the incidents alleged to have occurred on or around December 14, 2018, and December 17, 2018. However, because the allegations described

are relative to an active litigation, “for which [the inmate] has retained independent counsel, we are not able to provide further information at this time.” Although the Office of Legal Affairs provided a response to the Plaintiffs’ Counsel, the response was not meaningful and was provided over four months after receipt of the advocacy letter.

<i>Date Advocacy Letter was Submitted to CDCR</i>	<i>Date of Alleged Incident</i>	<i>Date Staff Complaint Inquiry Completed</i>	<i>Was an Inquiry Completed in response to Advocacy Letter?</i>	<i>Did CDCR Respond to the Plaintiffs’ Counsel?</i>
February 26, 2019 October 23, 2019	December 16, 2018	February 4, 2019	No	No

On December 16, 2018, an inmate allegedly requested access to an ADA shower. An officer came to his door and allegedly told him to “shut the [expletive] up,” and threatened to have him attacked if he filed a complaint. On January 6, 2019, the inmate filed a written complaint of his allegations on a Reasonable Accommodation Request, CDCR form 1824. On January 10, 2019, the Reasonable Accommodation Panel referred the matter for a staff complaint review.

On January 26, 2019, the inmate alleged that the officer continued to harass him, and allegedly repeatedly flashed a flashlight on the inmate’s genitals and stared at him while he was in the shower. On January 29, 2019, the inmate reported the allegation by calling the Administrative Officer of the Day hotline at the Office of Internal Affairs. A sergeant from the prison conducted an inquiry into this allegation.

On February 26, 2019, Plaintiffs’ Counsel submitted an advocacy letter to the Office of Legal Affairs which reported the inmate’s allegations of being refused a shower, being harassed, and having a flashlight flashed at him while he was in the shower.

On March 20, 2019, the prison referred the inmate’s allegations to the Office of Internal Affairs. The Office of Internal Affairs rejected the matter and returned it to the prison for further inquiry.

On October 23, 2019, Plaintiffs’ Counsel submitted a second request to the Office of Legal Affairs, which reported that the inmate alleged, at the end of February [2019], that an officer approached his cell and said, “You like writing us up? We’re going to [expletive] your ass up. We’re part of the Green Wall.” The inmate reported that he filed a staff complaint against a third officer who allegedly failed to release the inmate to obtain medications and taunted the inmate by stating, “Write me up and spell my name right.” The inmate also alleged that in retaliation for his complaints, the officers had him stabbed by other inmates on April 18, 2019.

The department provided the Office of Inspector General a copy of the inmate’s request for reasonable accommodation form signed January 6, 2019, the Reasonable Accommodation Panel response, a CDCR form 602, and related documentation regarding disabilities and medical classification.

OIG Analysis

The documentation the department provided us did not address the inmate's allegations. The inmate alleged staff misconduct on a request for reasonable accommodation form. The Reasonable Accommodation Panel reviewed the allegation on January 10, 2019, and notified the inmate on February 5, 2019, that his allegation of being denied showers was referred to "Appeals for Staff Complaint Review." However, the prison also provided us a copy of an inmate appeal, CDCR form 602, received by the appeals office on January 18, 2019, which simply stated, "See attached 1824 dated 1/6/19" and was assigned a log number. Attached to that appeal form was CDC form 695, dated January 28, 2019, which stated the appeal issue did not meet the criteria for a staff complaint, the appeal would be processed as a routine appeal, and "the ADA will be addressed via the Reasonable Accommodation Request form."

The department did refer the allegations made by the inmate to the Office of Internal Affairs. Upon review of the documentation from the Office of Internal Affairs, we found that although the Office of Internal Affairs received a copy of the Plaintiffs' Counsel's advocacy letter, dated February 26, 2019, the Office of Internal Affairs Central Intake Unit only reviewed the allegations of the discourteous statement and the flashing of a flashlight at the inmate's genitals. The Office of Internal Affairs Central Intake Unit rejected the case and returned the matter to the prison to conduct further inquiry. The prison conducted no further inquiries pursuant to the Office of Internal Affairs request, and the Office of Internal Affairs did not follow up with the institution.

The Office of Legal Affairs provided no response to the Plaintiffs' Counsel's advocacy letter.

<i>Date Advocacy Letter was Submitted to CDCR</i>	<i>Date of Alleged Incident</i>	<i>Date Staff Complaint Inquiry Completed</i>	<i>Was an Inquiry Completed in response to Advocacy Letter?</i>	<i>Did CDCR Respond to the Plaintiffs' Counsel?</i>
February 28, 2019	June 25, 2018	October 18, 2018	No	Yes

On June 25, 2018, an inmate allegedly approached an officer two or three times requesting to be sent to a mental health crisis bed because he was having suicidal thoughts. The inmate alleged that the officer told him to return to his cell each time. While the inmate was on the exercise yard, he asked for help as three officers approached him. The inmate reported that the officers allegedly suddenly grabbed him by the back of the arms and yelled at him, "stop resisting," threw him to the ground, kicked and kneed him, and stomped on his hand causing it to split open. A psychiatric technician responded and began administering first aid when officers allegedly attempted to make her stop and told her to "just leave him." The officers did not physically prevent the psychiatric technician from providing first aid.

Following the incident, the officers allegedly took the inmate to the gym and placed him in a holding cell while still handcuffed. Allegedly, the officers continued to harass and yell at him. At one point, an officer allegedly opened the holding cell door, struck the inmate in the back of the head, causing his head to strike the side of the holding cell, then kicked the inmate between the

legs, and closed the holding cell door quickly, as if nothing had happened. The inmate was later placed in a mental health crisis bed.

On July 9, 2018, the inmate filed a written complaint on a CDCR form 602, detailing the allegations of the officer failing to act when the inmate reported suicidal thoughts, officers using unreasonable force on him, and an officer striking him in the holding cell. The prison conducted an inquiry into the complaint and responded to the inmate that the inquiry determined staff did not violate department policy.

On February 28, 2019, Plaintiffs' Counsel sent a letter to the Office of Legal Affairs which reported the inmate's allegations and also reported the inmate alleged that several days prior to his transfer to another prison, while he was still in the mental health crisis bed, an officer came to the door of his cell and made a threatening gesture by pointing at the inmate, then pointing at himself, and made two fists indicating an intention to fight.

The department provided the Office of Inspector General a copy of the inmate's staff complaint, the inquiry report, the response to the inmate, use-of-force allegation review documents, medical documentation, a memorandum from a psychologist, and two letters from the Office of Legal Affairs, one acknowledging receipt of the advocacy letter and the other was a response to the Plaintiffs' Counsel.

OIG Analysis

We determined that the inmate made an allegation of excessive force to a psychologist on June 29, 2018, and that a sergeant conducted and concluded an inquiry on July 3, 2018. The inmate filed a written complaint to the prison on July 9, 2018. The inquiry was assigned to another sergeant, who concluded his review on August 15, 2018, pending the decision of the institution's executive review committee, who concluded their review on September 21, 2018. In a memorandum dated September 27, 2018, and provided to the inmate on October 18, 2018, the prison notified the inmate that the appeal inquiry was complete, all issues were adequately addressed, and staff did not violate department policy. The reviewing authority signed a memorandum on October 21, 2018, three days after notification to the inmate.

The prison concluded its inquiries prior to the receipt of the Plaintiffs' Counsel's advocacy letter. The inquiries only addressed the excessive force allegations reported by the inmate and not the alleged assault in the holding cell. The advocacy letter alleged that officers harassed and assaulted the inmate in the holding cell, and that an officer threatened the inmate while the inmate was in a mental health crisis bed. Although the memorandum to the inmate identified the inmate's allegation that officers assaulted the inmate in the holding cell, the reviewer did not address that allegation in his inquiry. There is no evidence that the prison conducted any further follow-up inquiries.

The department provided us with a copy of the Office of Legal Affairs response letter to Plaintiffs' Counsel, dated March 15, 2019, which indicated the staff misconduct allegations described by the advocacy letter "are appropriate for referral to the processes articulated in

Chapter 3, Articles 14 and 22 of CDCR’s Operations Manual, which govern Internal Affairs Investigations and employee discipline.” However, no one in the department made any such referrals.

The Office of Legal Affairs provided us with a copy of their response to the Plaintiffs’ Counsel, dated December 17, 2019. The response letter only addressed the excessive force allegations reported by the inmate in his staff complaint. Additionally, the prison completed an inquiry four months before the advocacy letters were sent to the Office of Legal Affairs. However, the Office of Legal Affairs responded to the Plaintiff’s Counsel almost 10 months after receipt of the advocacy letter.

Date Advocacy Letter was Submitted to CDCR	Date of Alleged Incident	Date Staff Complaint Inquiry Completed	Was an Inquiry Completed in response to Advocacy Letter?	Did CDCR Respond to the Plaintiffs’ Counsel?
April 18, 2019	June or July 2018	January 30, 2019	Yes	Yes

In June or July of 2018, an inmate alleged an officer ordered him to drop contraband from his hand. The inmate reported that he attempted to comply by offering the contraband to the officer, but instead, the officer allegedly grabbed the inmate’s hand, which was holding both the contraband and his cane. The inmate reported that he attempted to explain to the officer that he could not drop the contraband because the officer was pressing the contraband between the inmate’s hand and cane by holding down the inmate’s hand. The inmate reported that the officer then allegedly grabbed the inmate by the back of the head and slammed his head, face first, into the edge of a wooden table. A second officer allegedly intervened and told the first officer to stop. The inmate reported that the first officer then escorted the inmate to receive medical care for his injuries and allegedly threatened to write him up for a staff assault and possession of contraband if he reported how he received his injuries. The inmate reported that the officer stayed in the room with him while he was receiving medical care, therefore, he told the nurse he “hit a locker.” The inmate was transferred to another prison after the alleged incident.

In August 2018, a joint *Armstrong* compliance audit of the prison by CDCR and Plaintiffs’ Counsel was conducted. An audit report included details of this alleged misconduct. In response, on January 30, 2019, the prison conducted an inquiry into the allegations of misconduct.

On April 18, 2019, Plaintiffs’ Counsel sent a letter to the Office of Legal Affairs which reported the inmate’s allegations and fear of retaliation from the officer. Once the inmate was transferred to another prison, he was willing to report the incident. Additionally, the Plaintiffs’ Counsel also reported that the prison did not appropriately house the inmate and did not consider the inmate’s mobility restrictions.

The department provided the Office of Inspector General a copy of an allegation inquiry memorandum, dated January 30, 2019, and a copy of the Office of Legal Affairs response letter to the Plaintiffs’ Counsel, dated July 25, 2019.

OIG Analysis

Based on our analysis of the documentation, the prison conducted an allegation inquiry after the *Armstrong* compliance audit of August 2018, prior to the receipt of the Plaintiffs' Counsel's advocacy letter. The allegation inquiry addressed the allegation of unnecessary force.

The Office of Legal Affairs provided a response to the Plaintiffs' Counsel more than three months after receipt of the advocacy letter. The Office of Legal Affairs response to the Plaintiffs' Counsel addressed both the unnecessary force and the housing concerns. However, neither the inquiry conducted by the prison or the response by the Office of Legal Affairs addressed the alleged threat of a write-up made by the officer.

<i>Date Advocacy Letter was Submitted to CDCR</i>	<i>Date of Alleged Incident</i>	<i>Date Staff Complaint Inquiry Completed</i>	<i>Was an Inquiry Completed in response to Advocacy Letter?</i>	<i>Did CDCR Respond to the Plaintiffs' Counsel?</i>
May 31, 2019 July 12, 2019	April 24, 2019	June 5, 2019	No	No

On April 24, 2019, an inmate reported that a control booth officer was releasing inmates for the evening meal when he allegedly opened the inmate's cell door only after releasing all other inmates. The inmate reported that he left his cell and walked into the sally port when the gate was closed, and three officers allegedly ran into the sally port, trapping the inmate between them and the gate behind him. The inmate alleged that the three officers kicked him until he fell to the ground, punched him in the head and mouth, and then stomped on his left arm. During the assault, the inmate reported that the control booth officer allegedly recorded the assault on a mobile phone, and the floor officer allegedly stood on the other side of the gate watching the attack. Following the attack, the inmate reported that officers allegedly ordered him to go to the dining hall even though he was bleeding from the mouth and his clothes were covered in blood. The inmate went to the dining hall and returned to his cell after the evening meal. The inmate reported that at no time did staff inquire about what had happened to him.

Later, when officers released the inmate for evening activities, the inmate allegedly requested medical attention from a psychiatric technician. The psychiatric technician allegedly refused to help by stating, "I don't want to be a part of that," and told the inmate he would need a pass to go to the correctional treatment center. The floor officer allegedly refused to provide the inmate with a pass and ordered the inmate to return to his cell because he was inciting a riot. After the inmate was in his cell, a sergeant allegedly told him, "You're not getting any medical attention." The inmate reported that, after a shift change, he spoke with an officer who called medical staff and had the inmate taken to the correctional treatment center for medical attention.

On May 13, 2019, the inmate filed a written complaint on a CDCR form 602 alleging three officers used unreasonable force on him, and a fourth officer and a sergeant failed to seek medical assistance for him. The prison conducted an inquiry and determined that the matter

would be referred to the Office of Internal Affairs. On August 14, 2019, the Office of Internal Affairs approved an investigation into the matter.

On May 31, 2019, Plaintiffs’ Counsel sent a letter to the Office of Legal Affairs which reported the inmate’s allegations. On July 12, 2019, Plaintiff’s Counsel sent a supplemental letter to the Office of Legal Affairs, providing the department with additional information; specifically, the names and statements of two witnesses to the incident.

The department provided the Office of Inspector General with copies of the inmate’s staff complaint, use-of-force allegation worksheets, medical documentation, and a request for internal affairs investigation with supporting documentation.

OIG Analysis

In our analysis, we noted that the prison completed use-of-force allegation worksheets on June 5, 2019. A captain reviewed the worksheets and recommended further inquiry. The prison submitted a request for investigation to the Office of Internal Affairs. On August 14, 2019, the Office of Internal Affairs approved an investigation into allegations of unnecessary force and failure to report a use of force. The department did not notify the Office of Internal Affairs of the allegations in the advocacy letter, nor did they provide the Office of Internal Affairs with the supplemental information provided by the Plaintiffs’ Counsel. Also, the department did not communicate to Plaintiffs’ Counsel that an investigation had been opened.

<i>Date Advocacy Letter was Submitted to CDCR</i>	<i>Date of Alleged Incident</i>	<i>Date Staff Complaint Inquiry Completed</i>	<i>Was an Inquiry Completed in response to Advocacy Letter?</i>	<i>Did CDCR Respond to the Plaintiffs’ Counsel?</i>
July 12, 2019	September 28, 2018 June 4, 2019	August 30, 2019	No	No

On September 28, 2018, an inmate reported that he was in the dining hall during breakfast. After obtaining his food tray, the inmate reported that the shell on his hard-boiled egg was cracked and he asked the food server for another egg. The server allegedly said no, so the inmate took an egg off a new tray, replaced it with his cracked egg, and returned to his seat. The inmate reported that he saw an officer, who he knew to be assigned to the investigative services unit, allegedly speak with the food server, after which the officer approached the inmate. The inmate alleged the officer stated, “Who do you think you are? I would have eaten that egg at home,” or words to that effect. The inmate responded, “I’m not at home, I’m in prison,” after which the officer allegedly commented that the inmate was being “funny” and ordered him to place his hands behind his back. The inmate reported that he had papers in his hand and tried to put them in his pocket before complying with the officer’s order. The officer allegedly repeated his order then pushed the inmate, forcing his head against the wall with one hand, and pushing him in the back with the other hand. The inmate reported that this use of force caused him to trip and twist his ankles.

The inmate further reported that the officer allegedly began handcuffing him behind his back, but another officer told the officer the inmate had to be handcuffed in front because of his disability and use of a walker. After the officer handcuffed the inmate, he escorted him to the mental health building, located a significant distance away from the dining hall. The inmate reported that he told the officer he was in serious pain because of his injured ankles, and the officer allegedly told him to “shut up.” The officer placed the inmate in a holding cell for approximately 20 minutes, after which time the inmate reported a sergeant released him back to his housing unit and allegedly stated, “We’re going to let this go.”

On October 23, 2018, the inmate filed a written complaint on a CDCR form 602 alleging unreasonable force by the officer. The prison conducted an inquiry into the complaint and responded to the inmate that staff did not violate department policy with respect to one or more of the issues appealed.

On June 4, 2019, the inmate reported that he was going to the exercise yard but went back to his cell to get his glasses. The inmate reported that when he was walking back out of his cell, the control booth officer allegedly closed his cell door, trapping him between the cell door and wall for two to three minutes. The inmate reported that as a result of being trapped by the cell door, he now has significant and persistent back pain.

On June 13, 2019, the inmate filed a request to be removed from his job assignment on a Reasonable Accommodation Request, CDCR form 1824, specifying the request was a result of an officer closing a cell door on him and injuring the his back.

On July 12, 2019, Plaintiffs’ Counsel sent a letter to the Office of Legal Affairs which reported the inmate’s allegations from September 28, 2018, and June 4, 2019.

The department provided the Office of Inspector General with copies of the documentation related to the September 28, 2018, allegation of unnecessary use of force. We received a copy of the inmate’s staff complaint, the inquiry report, use-of-force allegation worksheets, medical documentation, and the response to the inmate. The department also provided us copies of the documentation related to the June 4, 2019, incident which the inmate submitted on a Reasonable Accommodation Request, CDCR form 1824, and the Reasonable Accommodation Panel response, as well as a letter from the department’s Office of Legal Affairs acknowledging receipt of the advocacy letter.

OIG Analysis

The prison received the inmate’s staff complaint on October 23, 2018, which only identified the allegation of the unnecessary force, and not the allegation that the officer told him to “shut up” when he reported his ankle pain. A sergeant conducted the review and interviewed the inmate on October 24, 2018, and again on October 30, 2018, regarding only the allegation of the unnecessary force. The assigned sergeant signed the completed inquiry report on August 12, 2019. The hiring authority signed the completed inquiry report on August 30, 2019.

In a memorandum dated October 30, 2018, but delivered on August 30, 2019, prison staff notified the inmate that the appeal inquiry was complete and adequately addressed all issues. The memorandum also stated that staff did not violate department policy with respect to one or more of the issues appealed.

We also reviewed the CDCR form 1824 and the Reasonable Accommodation Panel response. On the CDCR form 1824, the inmate requested he be removed from his job assignment due to his physical limitations. Additionally, the inmate documented that he suffered a back injury “again” on June 4, 2019, when an officer closed his cell door on him. The Reasonable Accommodation Panel conducted a meeting on the inmate’s request and determined that removing the inmate from his job assignment was not an appropriate accommodation. The panel’s response did not address the allegation that an officer closed the cell door on the inmate.

On July 19, 2019, the Office of Legal Affairs acknowledged receiving the Plaintiffs’ Counsel’s advocacy letter and indicated the allegation(s) presented were routed to the appropriate personnel at the department. Additionally, the letter indicated that the Office of Legal Affairs would provide Plaintiffs’ Counsel with information when it became available.

The prison opened but did not complete an inquiry into the use of force until August 30, 2019. Furthermore, the use-of-force inquiry began prior to the date of the advocacy letter. There is no evidence that the department conducted any additional inquiry after it received the Plaintiffs Counsel’s letter, which included two additional allegations of staff misconduct. The department should have referred the allegation of misconduct to the Office of Internal Affairs for consideration of investigation pursuant to department policy set forth in the Department Operations Manual. Also, no additional communication occurred between the department and Plaintiffs’ Counsel to address the concerns raised in Plaintiffs’ Counsel’s letter, dated July 12, 2019.

<i>Date Advocacy Letter was Submitted to CDCR</i>	<i>Date of Alleged Incident</i>	<i>Date Staff Complaint Inquiry Completed</i>	<i>Was an Inquiry Completed in response to Advocacy Letter?</i>	<i>Did CDCR Respond to the Plaintiffs’ Counsel?</i>
July 17, 2019	March 17, 2019	June 24, 2019	No	Yes

On March 17, 2019, an inmate had a verbal confrontation with three other inmates in front of his housing unit. The inmate reported that he walked away, entered his housing unit, and waited outside of his cell for the control booth officer to open his door. While waiting for his cell door to open, the inmate reported that he observed one of the inmates he had argued with approach the podium and speak with two officers. The inmate then entered his cell, and the control booth officer closed the cell door but then allegedly reopened the cell door a few seconds later. The inmate reported that two of the three inmates with whom he had argued then entered his cell and kicked and punched him while the third inmate stood watch outside of his cell. The inmate stated that he looked through his cell door towards the podium hoping that the two officers would intervene. Instead, the two officers allegedly walked away from the podium, out of the line of

sight to the inmate's cell. The inmate reported that he lost consciousness and when he regained consciousness, the attackers were gone and had taken his television and radio.

The inmate reported that he attempted to get the attention of the officers, so he could be seen by medical staff, by banging on his cell door, and requesting other inmates summon the officers but that no officers allegedly came to his cell. The inmate reported that he was later released from his cell to receive his afternoon medication, at which time he allegedly reported his assault to an officer. The officer escorted the inmate to be examined by medical staff, nearly four hours after the other inmates assaulted him. The inmate reported that he sustained multiple facial fractures, requiring two surgeries to address his injuries.

On May 20, 2019, the inmate filed a written complaint on a CDCR form 602 alleging that officers allowed inmates to enter his cell and attack him, failed to respond to the incident to provide the inmate medical assistance, and let other inmates take his personal property. In a memorandum, dated June 14, 2019, prison staff notified the inmate that the appeal inquiry was complete and adequately addressed all issues. The memorandum also stated that staff did not violate department policy with respect to one or more of the issues appealed.

On July 17, 2019, Plaintiffs' Counsel sent a letter to the Office of Legal Affairs which reported the inmate's allegations from the March 17, 2019, incident.

The department provided the Office of Inspector General a copy of the inmate's staff complaint, the inquiry report, the response to the inmate, and two letters from the Office of Legal Affairs, one acknowledging receipt of the advocacy letter and the other, a response to the advocacy letter.

OIG Analysis

The date of the inmate's staff complaint was March 28, 2019, however, the prison stamped the complaint as received on May 20, 2019. The inmate's staff complaint reported the incident that occurred on March 17, 2019, and identified the same allegations as noted by the advocacy letter, dated July 17, 2019.

A lieutenant at the prison completed the inquiry report, dated June 17, 2019, which identified the allegation that three officers failed to act while the inmates attacked the inmate. The inquiry only addressed the allegations that the control booth officer opened the inmate's cell door, permitting inmates to enter and assault the inmate, and that three officers failed to intervene when the inmates assaulted the inmate. The inquiry report did not address the allegations of missing property or failure to provide access to medical care for nearly four hours.

On July 19, 2019, the Office of Legal Affairs acknowledged receiving the Plaintiffs' Counsel's advocacy letter and indicated the allegation(s) presented were routed to the legal liaison for the prison, who would provide the Plaintiffs' Counsel with information when it became available. The Office of Legal Affairs provided a response to the Plaintiffs' Counsel on November 19, 2019, over four months after receipt of the advocacy letter.

The records provided to us illustrated that the prison conducted and completed the inquiry in response to the staff complaint appeal on June 24, 2019, one month prior to the receipt of the advocacy letter. The department conducted no further inquiry after it received the Plaintiffs' Counsel's letter. The department should have referred the allegation of misconduct to the Office of Internal Affairs for consideration of investigation pursuant to department policy set forth in the Department Operations Manual.

<i>Date Advocacy Letter was Submitted to CDCR</i>	<i>Date of Alleged Incident</i>	<i>Date Staff Complaint Inquiry Completed</i>	<i>Was an Inquiry Completed in response to Advocacy Letter?</i>	<i>Did CDCR Respond to the Plaintiffs' Counsel?</i>
August 28, 2019	May 18, 2019	October 22, 2019	Yes	No
	July 18, 2019	October 22, 2019	Yes	No

On May 18, 2019, an officer allegedly told an inmate the prison was moving him to another yard, and the inmate requested to see a sergeant. The sergeant allegedly came to the inmate's cell door, told him to calm down, offered him a television, then walked away. The inmate reported that he felt distressed and covered his cell window with a sheet, and allegedly reported to a clinician that he had issues with the custody staff. The clinician allegedly threatened the inmate with a cell extraction. The inmate reported that he removed his window covering, however, he re-covered it, and another sergeant came to speak with him. The inmate allegedly told the sergeant that he was suicidal and swallowed two razors in front of him, to which the sergeant allegedly yelled "non-responsive inmate." The control booth officer opened the cell door. The inmate reported that he allegedly got down and lay prone on the floor of his cell. The sergeant and other officers allegedly dragged him out of his cell by his shoulders and started punching, kicking, and stomping on him in the middle of the housing unit. The inmate reported that an officer escorted him to the triage and treatment area, where medical staff gave him milk of magnesia, and he ultimately passed the razors. The prison then housed the inmate in the administrative segregation and issued a rules violation for assault on a peace officer.

On July 18, 2019, the inmate alleged that officers forcefully handcuffed and placed the inmate in waist restraints in a wheel chair and took him to the institutional classification committee meeting. The committee determined that the prison would move the inmate to the same yard they originally planned to move him in May 2019. The inmate reported that he was upset and wanted to see a clinician, but two officers allegedly escorted him to a holding cell in the housing unit. The inmate requested to use the restroom while he was being placed into the holding cell, and the officers allegedly told him he could use the restroom when he got to the yard. The inmate then put his feet down to prevent the officers from placing him in the holding cell, and one officer allegedly stated, "tip the wheelchair back," and the inmate stood up and stated he did not want to go the yard, and the second officer allegedly slammed him to the ground. The inmate reported that he landed on his face and his teeth lacerated the inside of his lip. The inmate began spitting blood. The inmate reported that once he was housed in the new housing unit, he allegedly did not receive all of his personal property.

On August 28, 2019, Plaintiff's Counsel sent a letter to the Office of Legal Affairs which reported the inmate's allegations from May 18, 2019, and July 18, 2019. The inmate had not previously filed a complaint.

The department provided the Office of Inspector General with a copy of the incident packages, use-of-force reviews and medical documentation from both incidents, and an allegation inquiry report. The inquiry report addressed both incidents.

OIG Analysis

The department provided our office with documentation verifying that the prison conducted the allegation inquiry in response to the Plaintiffs Counsel's advocacy letter. The inquiry report addressed the use-of-force incidents but did not address the inmate's allegation of missing property. The Plaintiffs' Counsel received no response from the department. The department should have referred the allegations of misconduct to the Office of Internal Affairs for consideration of investigation pursuant to department policy set forth in the Department Operations Manual.

<i>Date Advocacy Letter was Submitted to CDCR</i>	<i>Date of Alleged Incident</i>	<i>Date Staff Complaint Inquiry Completed</i>	<i>Was an Inquiry Completed in response to Advocacy Letter?</i>	<i>Did CDCR Respond to the Plaintiffs' Counsel?</i>
October 4, 2019	May 11, 2018	July 20, 2018	No	Yes

On May 11, 2018, an inmate reported that he was waiting in the mental health building and he approached an officer to get his identification card back before he went out to court. The officer allegedly refused the inmate's request and taunted the inmate by calling him a derogatory name. The inmate reported that he called the officer the same derogatory name, and the two exchanged insults. The inmate reported that several officers then allegedly surrounded the inmate, and the officer allegedly sprayed him in the face with approximately half a canister of pepper spray. When the pepper spray took effect, the inmate bent over and dropped to the ground. The officer then allegedly kicked the inmate in the face, twice, extremely hard. The inmate reported that he received medical attention and reported the unnecessary force.

The inmate reported that following the incident, the prison issued him a rules violation report for assaulting a peace officer. He reported that although he tried to present evidence that would exonerate him, the senior hearing officer allegedly told him that he was going to believe the officer and offered the inmate a lesser violation if he plead guilty. Fearing greater penalty that would increase his sentence, the inmate pled guilty to a lesser charge.

On June 8, 2018, the inmate submitted a staff complaint on a CDCR form 602. The inmate reported that prison staff told him the prison referred his staff complaint to the Office of Internal Affairs.

On October 4, 2019, Plaintiffs’ Counsel sent a letter to the Office of Legal Affairs which reported the inmate’s allegations of unreasonable force. Plaintiffs’ Counsel also reported that the inmate alleged that he spoke with the officer about dropping his staff complaint, if the officer and others would stop harassing him, and that the officer allegedly agreed. The inmate reported that he withdrew his staff complaint, but the harassment did not stop. The inmate reported that officers allegedly continued to call him names and search his cell more frequently than they searched other inmates’ cells.

The department provided the Office of Inspector General with copies of the inmate’s staff complaint, use-of-force allegation worksheets, medical documentation, a request for an internal affairs investigation with supporting documentation, and a response letter by the Office of Legal Affairs to the Plaintiffs’ Counsel.

OIG Analysis

The department completed use-of-force allegation worksheets on May 15, 2018, and submitted a request for investigation to the Office of Internal Affairs. On July 3, 2018, the Office of Internal Affairs approved an investigation into allegations of unnecessary force and failure to report a use of force. We determined that the Office of Internal Affairs conducted an investigation prior to the receipt of the advocacy letter.

The department took almost three months to respond to the Plaintiffs’ Counsel. On December 26, 2019, the Office of Legal Affairs provided a response to Plaintiffs’ Counsel that the Office of Internal Affairs had conducted and completed an investigation into the allegations of excessive force on April 5, 2019. The response letter also addressed the allegation related to the unfair rules violation hearing, which was not an allegation referred to the Office of Internal Affairs. However, the response only indicated that the hearing officer documented testimony and evidence supporting his finding. The department did not request any further inquiry be conducted on this allegation.

<i>Date Advocacy Letter was Submitted to CDCR</i>	<i>Date of Alleged Incident</i>	<i>Date Staff Complaint Inquiry Completed</i>	<i>Was an Inquiry Completed in response to Advocacy Letter?</i>	<i>Did CDCR Respond to the Plaintiffs’ Counsel?</i>
October 10, 2019	September 6, 2019 September 10, 2019	September 23, 2019	No	Yes

On September 6, 2019, an inmate was found unconscious in his cell and was transported to an outside hospital for care. An officer rode in the ambulance with the inmate, and a second officer met the ambulance at the hospital. The inmate was admitted to the hospital and reported that a nurse allegedly told him to use his call button if he needed medical attention. The inmate felt dizzy and pressed the call button twice. The officer allegedly told the inmate multiple times to “stop pressing that [expletive] button,” then grabbed the television remote from the inmate’s hand and hit the inmate in head with it and hovered over him and threatened him. The inmate

alleged that the second officer then shut the door, and the first officer allegedly proceeded to choke the inmate, stopping only after the inmate yelled for help, but before three nurses and a security guard could respond. The inmate allegedly reported the incident to the nurse, who stated she could not report the choking because she did not see it but allegedly confirmed she saw the redness on his neck. The inmate alleged that the prison issued him a rules violation for delaying a peace officer in connection with this incident.

The inmate alleged that on September 10, 2019, an officer was escorting him to his cell when he reported to the officer that he felt unwell and was afraid he was going to lose consciousness. He was put in his cell and left there allegedly with waist restraints on. The inmate reported that approximately 10 minutes later, a sergeant and two officers allegedly entered his cell and began kicking him the head. The inmate alleged he lost consciousness, did not know how long the beating lasted, and was left in his cell drifting in an out of consciousness and bleeding for five hours before a housing unit officer discovered him and transported him to the triage and treatment area. Subsequently, officers transported the inmate to an outside hospital.

On September 16, 2019, the inmate filed a written complaint on a CDCR form 602 regarding the September 10, 2019, incident. The prison conducted an inquiry and on October 28, 2019, and determined that staff did not violate department policy with respect to one or more of the issues appealed. However, on October 17, 2019, the warden submitted a request for investigation to the Office of Internal Affairs.

On October 10, 2019, Plaintiffs' Counsel sent a letter to the Office of Legal Affairs, which reported the inmate's allegations of September 6, 2019, and September 10, 2019.

The department provided the Office of Inspector General with a copy of the incident reports and allegation worksheets related to both the September 6, 2019, and the September 10, 2019, allegations of unnecessary use of force.

OIG Analysis

The prison completed an inquiry for the September 6, 2019, allegation of unnecessary force and determined that the allegation was unsubstantiated.

The prison reported that the hiring authority referred the allegation from September 10, 2019, to the Office of Internal Affairs for an investigation. The prison also provided us a copy of the prison's inquiry into the allegation of unnecessary force. A memorandum to the inmate dated October 28, 2019, stated the prison determined that staff did not violate policy. However, 10 days prior, on October 17, 2019, the warden had already signed a request for investigation. The Office of Internal Affairs approved the case for an investigation on November 20, 2019.

The Office of Legal Affairs provided a response to the Plaintiffs' Counsel on October 30, 2019, twenty days after receiving the advocacy letter. The response reported that the prison completed the inquiry for the September 6, 2019, incident and found no violation of policy, and that the

prison referred the September 10, 2019, incident to the Office of Internal Affairs for an investigation.

<i>Date Advocacy Letter was Submitted to CDCR</i>	<i>Date of Alleged Incident</i>	<i>Date Staff Complaint Inquiry Completed</i>	<i>Was an Inquiry Completed in response to Advocacy Letter?</i>	<i>Did CDCR Respond to the Plaintiffs' Counsel?</i>
October 29, 2019	September 1, 2019	September 2, 2019	No	No

On September 1, 2019, an inmate alleged that an officer came to his cell and advised him that he was required to take a random drug test. When the inmate requested to speak with a sergeant, the officer allegedly stated, "I don't have time for this shit." The inmate stated that the officer then allegedly tightly handcuffed him behind his back which prevented him from being able to use his cane or walker to ambulate. The inmate asked for waist restraints, and the officer allegedly stated, "You know, you're an asshole, you're a real asshole. You're the cause of a lot of stuff around here." The officer then allegedly led the inmate across the dayroom to the toilets to provide a urine sample. The inmate allegedly asked to have the test conducted in a more sanitary area and not the filthy dayroom toilets. The officer allegedly denied the request, and the inmate then yelled to a second officer to call a sergeant.

The inmate reported that he began losing feeling in his hands and asked the officer to loosen his handcuffs. The officer allegedly called the inmate an "asshole" and grabbed the inmate by the back of his left arm and threw him to the ground, causing him to fall hard on his hip. The inmate alleged that he laid on the ground for a number of minutes, unable to get up on his own due to the pain, and another officer allegedly approached and said something to him in Spanish, which he did not understand. This officer and the first officer then allegedly helped him to his feet and forced him to stand on his feet without the aid of his cane or walker. A third officer arrived from outside the building and escorted the inmate to the urinal. The third officer allegedly pulled the inmate's pants and underwear down to his knees, exposing his genitals and then held a cup in front of the inmate to provide a urine sample. The inmate alleged that he attempted to provide a urine sample in the cup but because his hands were handcuffed behind his back, he urinated on his pants and legs. The first officer then escorted him back to his cell, where the inmate requested to be seen by medical staff because his side and back hurt from the fall. The officer allegedly refused his request. The inmate was seen by medical staff two days later, when he reported the incident to medical staff and later the same day to a sergeant.

Four days later, on September 5, 2019, the inmate reported that a sergeant conducted a video-recorded interview with him, and the sergeant allegedly disputed the inmate's account of the incident and insisted that the inmate was resisting. The inmate reported that the sergeant allegedly stopped recording his statement every time the inmate accused the sergeant of being a part of the staff misconduct at the prison.

On September 5, 2019, the inmate submitted his written complaint of staff misconduct on the Reasonable Accommodation Request, CDCR form 1824. The Reasonable Accommodation Panel elevated the matter for further review.

On September 9, 2019, the prison served the inmate with a rules violation for delaying an officer in the performance of his duties in the September 1, 2019, incident. On October 1, 2019, the prison conducted a hearing for the rules violation. The inmate alleged that the senior hearing officer allegedly refused to interview any of his witnesses or review his defenses and stated, “I believe my officer and I’m going to find you guilty. If you don’t like it, you can 602 it.”

On October 29, 2019, Plaintiffs’ Counsel sent a letter to the Office of Legal Affairs reporting in detail the inmate’s allegations of unreasonable force, and additionally, discourteous treatment by the officers, the failure to accurately record the inmate’s statement, a retaliatory rules violation, and an unfair rules violation hearing.

The department provided the Office of Inspector General with a copy of the inmate’s staff complaint, which he wrote on a Reasonable Accommodation Request, CDCR form 1824, the Reasonable Accommodation Panel response, the rules violation report, an inquiry report, and use-of-force allegation review documents.

OIG Analysis

In our analysis, we noted that the inmate filed his complaint on September 5, 2019, alleging only that the officer pushed him down and deprived him of medical attention. The Reasonable Accommodation Panel reviewed the allegation on September 12, 2019, and elevated the matter for further review. The allegation inquiry that the department conducted was not classified as a staff complaint but as a routine appeal. The inquiry report, dated September 2, 2019, only addressed “Unnecessary/Excessive Force” and concluded there was no merit to the inmate’s claim of staff misconduct.

The inquiry report received by the Office of Inspector General was not signed by the hiring authority, and it is unknown if the inmate received a response. The department conducted no further inquiry into the inmate’s eight additional allegations contained in the letter. Additionally, the department did not reply to the Plaintiffs’ Counsel’s advocacy letter. Furthermore, the advocacy letter identified allegations of serious staff misconduct. The department should have referred the allegations of misconduct to the Office of Internal Affairs for consideration of investigation pursuant to department policy set forth in the Department Operations Manual.

<i>Date Advocacy Letter was Submitted to CDCR</i>	<i>Date of Alleged Incident</i>	<i>Date Staff Complaint Inquiry Completed</i>	<i>Was an Inquiry Completed in response to Advocacy Letter?</i>	<i>Did CDCR Respond to the Plaintiffs’ Counsel?</i>
November 5, 2019	April 12, 2019	August 23, 2019	No	No

On April 12, 2019, an inmate reported that he was frustrated with his clinician, stormed out of an appointment, and went back to the yard. When he approached the gate to the yard, an officer allegedly opened the gate, striking the inmate and stated, "Don't let the gate hit you in the ass, get out of here." The inmate reported that he yelled back, "Hey, what are you doing?" when a second officer yelled, "Get the [expletive] down!" The inmate stated that he raised his hands and backed away when the two officers allegedly drew their batons and tackled him to ground, and a third officer allegedly grabbed the inmate's head and struck it on the concrete. The inmate alleged that eight officers and a sergeant struck him numerous times with batons, fists, and kicks to the face, ribs, and chest.

The inmate reported that he passed out and when he woke up, an officer was allegedly kneeling on his head, crushing his ear to the concrete, while officers placed him in handcuffs and leg restraints. The officers escorted the inmate to a gym, and while he was standing in front of the holding cell, an officer allegedly stood on his leg restraints and pushed him forward, causing him to strike his head on the holding cell. The inmate alleged that another officer repeatedly kicked and kned him in the ribs before he was picked up and thrown into the holding cell. The inmate reported that officers then stripped him of his clothing and allegedly left him in the holding cell. An officer gave the inmate his glasses which were no longer in their hard-plastic case and were twisted and broken.

A psychiatric technician entered the gym with an officer to conduct a medical evaluation. The officer allegedly made derisive comments, like "That's what you get for being an asshole," causing the inmate to request to speak with the psychiatric technician alone. The psychiatric technician allegedly responded, "I can't do nothing for you," and left the gym. The inmate reported that he was left naked and bleeding in the holding cell for nearly five hours, when another psychiatric technician allegedly found him and had the inmate escorted to the medical building for treatment.

On April 13, 2019, two sergeants conducted a video-recorded interview of the inmate. The inmate alleged that during the recorded interview, the two sergeants were allegedly hostile toward him and repeatedly asked, "Are you sure you want to make a statement?" Additionally, the inmate alleged that during a second interview, the investigative services unit officer repeatedly questioned the veracity of the inmate's allegations by stating that it was "impossible" for the inmate to be thrown into the holding cell and that he knew the officers involved and had already spoken to them about the incident.

On May 21, 2019, the inmate filed a written complaint on a CDCR form 602 alleging officers and a sergeant used unnecessary force, and an officer had broken his glasses. The prison conducted an inquiry and determined that staff did not violate policy.

On November 5, 2019, the Plaintiffs' Counsel sent a letter to the Office of Legal Affairs reporting the allegations of unnecessary force, and additionally the allegations of discourteous statements, two sergeants' attempts to dissuade the inmate from reporting the misconduct, and the officer questioning the veracity of the inmate's allegations.

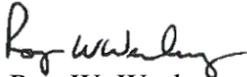
The department provided the Office of Inspector General with a copy of the inmate's staff complaint, the inquiry report, the response to the inmate, the incident package, the use-of-force allegation review documents, medical documentation, a memorandum requesting follow-up from the Department Executive Review Committee, and an allegation inquiry report.

OIG Analysis

The prison conducted an inquiry into the inmate's allegations of unnecessary force and submitted a response to the inmate on June 13, 2019, indicating staff did not violate policy. The prison also conducted an additional review of the incident in response to the request for follow-up from the Department Executive Review Committee. The prison completed the allegation inquiry on August 23, 2019. In neither report did the prison address all of the inmate's allegations. In neither report did the prison address the allegations of the broken glasses, the discourteous statement, the interview by the sergeants dissuading the inmate from reporting the incident, and the officer questioning the veracity of the inmate's allegations.

On December 27, 2019, an associate director of the department requested a different prison conduct an inquiry into these allegations.

Sincerely,



Roy W. Wesley
Inspector General